

UNITED STATES AIR FORCE ACADEMY
ALTERNATIVE DISPUTE RESOLUTION (ADR)
PLAN

Overview

Alternative Dispute Resolution (ADR) is a term used to describe a variety of approaches to resolve conflicts in lieu of traditional administrative/adjudication methods. ADR does not replace traditional processes; rather, it supplements them to resolve disputes in a more cost effective and timely fashion. ADR may also be less contentious than formal administrative/adjudication processes. ADR empowers the parties to a conflict to maintain control over the process and its outcome. ADR processes emphasize open communication and cooperation in identifying mutual interests to develop justifiable and sensible solutions to resolve disputes.

Examples of ADR include:

- Use of objective third-party neutrals to conduct mediation, facilitation, conciliation, or fact finding inquiries
- Use of subject matter experts for early neutral evaluation or advisory opinions
- Combinations and hybrids of above techniques

ADR History and Mandate

ADR techniques have been used for centuries. In fact, many of us use these skills routinely. However, the increasingly litigious nature of our society caused Congress to pass the Administrative Dispute Resolution Acts of 1990 (ADRA of 1990) to test the utility of ADR in the Federal Government over a five year period. Upon completion of this test period, a number of agencies, including the Department of the Air Force, testified before Congress that ADR had a significant positive impact on dispute resolution in their agencies. Accordingly, Congress passed permanent legislation in the form of the Administrative Dispute Resolution Act of 1996 (Public Law 104-320). The ADRA urges all federal agencies to use alternative dispute resolution (ADR) processes to resolve issues in controversy. The ADRA requires agencies to develop ADR policies, designate Dispute Resolution Specialists and provide ADR training to implement the Act's provisions.

A number of other statutes, executive orders, regulations, and policies require the Air Force to take steps to promote the use of ADR. Most recently, on 10 June 2004, the Secretary of the Air Force sent a memorandum to all MAJCOM and FOA commanders urging them to make a personal commitment to ensure the Air Force achieves the full measure of ADR benefits through implementation

of AFI 51-1201, Alternative Dispute Resolution in Workplace Disputes, dated April 2004.

DoD Policy

It is DOD policy that all disputes are potential candidates for resolution through an ADR process. Agency officials and the parties to a dispute should review each dispute to see if it is appropriate for resolution using an ADR process or technique.

Guidelines for Civilian Personnel Disputes Appropriate for ADR

Use of ADR is voluntary. Accordingly, all parties to a dispute must agree to use ADR to resolve the dispute at hand. Normally, if both sides voluntarily agree to use ADR, then ADR may be considered appropriate. However, ADR may not be appropriate in the following cases:

- A definitive and authoritative decision is needed as legal precedent
- The matter is or is likely to become the subject of a criminal proceeding
- The matter involves fraud, waste or abuse [Note: The Staff Judge Advocate will advise as to the appropriateness of using ADR]
- The matter involves significant issues of Air Force policy that require procedural development and ADR will not assist policy development
- Maintaining an established policy and/or avoiding variations in decisions is of special importance
- The matter significantly affects non-parties
- A full public record of the proceeding or resolution is important
- The agency must maintain continuing jurisdiction over the matter with the right to alter the resolution as circumstances demand.

ADR and other Avenues of Redress

ADR does not excuse filing deadlines. Accordingly, employees considering other complaint avenues, such as EEO complaints or grievances, are responsible for ensuring they file their complaints/grievances within the time frames applicable for pursuing these processes. (For example, EEO complaints within 45 calendar days of the discriminatory incident; a negotiated grievance within 20 calendar days, etc.).

USAFA ADR Program

Policy

USAFA's policy is to utilize ADR to the maximum extent practicable, using mediation as the primary method of resolving workplace disputes. Mediation has been shown to be effective in helping parties communicate with each other and encouraging them to create their own solutions instead of referring their problems to a judge, arbitrator, or other outside decision-maker. Mediation may be used to resolve any workplace dispute, including Equal Employment Opportunity (EEO) complaints, employee grievances under either the Negotiated Grievance Procedure or the Agency Grievance Procedure.

USAFA ADR Champion

The USAFA ADR champion will serve as the single point of contact for information/resources on ADR and requests for mediation. The ADR champion will compile required program reports and evaluation forms submitted by the mediators and provide administrative support and policy direction to the ADR program. The USAFA ADR champion will also:

- a. Initially screen workplace disputes, with assistance from USAFA JA, to determine whether ADR is appropriate and should be offered. In some cases, assistance from DPC or the local union may also be appropriate.
- b. Consolidate ADR reports or requests for information regarding installation ADR activity and requests for ADR resources, e.g., Mediation training, Marketing Assistance, Mediation/Mentor Services
- c. Seek nominations and schedule training of additional mediators as deemed necessary
- d. Maintain a list of ADR resources available at USAFA (e.g. marketing materials, local ADR agreements and instructions, installation mediators, etc.)
- e. Market the ADR Program
- f. Periodically review the existing approaches to dispute resolution. Foster use of ADR techniques by identifying and removing program barriers to the use of ADR.

Commanders, Managers and Supervisors

Commanders, managers, and supervisors will consider whether ADR would be a more timely and cost effective way to resolve workplace disputes. Consultation with USAFA JA labor counsel and/or other applicable representatives i.e. Civilian Personnel or Union is encouraged. Management personnel should not sign negotiated settlement agreements without the assistance of legal counsel and all other applicable organizations.

ADR and Union

The local union, AFGE Local 1867, is an essential stakeholder in the ADR process. Their support for using ADR to resolve workplace disputes, including employee grievances and unfair labor practice complaints, is essential to overall program success. Nothing in this ADR plan will be inconsistent with existing labor agreements. (Note: deleted sentence was redundant with two preceding).

Compliance with Equal Employment Opportunity Commission (EEOC) Regulations

In accordance with EEOC regulations found at 29 C.F.R. 1614, USAFA's ADR program encompasses EEO informal and formal complaints. All mediators of EEO complaints will know and understand federal agency EEO complaint procedures contained in 29 C.F.R. Part 1614 and MD-110, along with possessing a working knowledge of federal anti-discrimination laws.

The ADR champion will use the EONET-CIV computer system/database's standardized EEO forms and ADR processes. Documents that relate to ADR are available on the Air Force ADR Program website at <http://www.adr.af.mil>.

The installation EEO Manager serves as the primary point of contact for disputes involving alleged discrimination.

Criteria for Nominating USAFA Personnel to Attend Air Force Mediation Training

USAFA candidates for mediation training must possess the ability to obtain and analyze relevant information from the parties to a dispute, be able to effectively communicate, demonstrate active listening and have the ability to suspend judgment and manage conflict so as to facilitate resolution of workplace disputes. Candidates should be able to demonstrate patience, empathy, impartiality, creativity, commitment to using the mediation process, confidence, competence, and a positive attitude. In addition, all nominees must agree in writing to:

- Attend the 32 hour Air Force Basic Mediation Course

- Maintain and improve their mediation skills for 24 months after completion of the Air Force Basic Mediation Course
- Attend mediator training meetings scheduled by the ADR champion on topics such as improving communication skills, mediator ethics, various complaint systems, terms of the union contract; role-playing, and improving the mediation process

Program Evaluation

To ensure that the USAFA ADR program goals are clearly defined and accurately measured, USAFA will adopt the following goals and metrics to evaluate program performance:

1. ADR Attempt Rate. To measure ADR usage, we will compare the number of ADR attempts to the total number of workplace disputes, and express the result as a percentage. While the utilization of ADR ultimately depends on the willingness of individual parties to attempt ADR and/or provisions in labor agreements, tracking ADR attempts is an important indicator of ADR activity.
2. ADR Resolution Rate. This is defined as the percentage of ADR attempts resulting in a full resolution of the dispute. This measurement is useful in capturing the effectiveness and quality of ADR services. While not every ADR attempt results in a successful resolution, measuring resolution rates will assist in identifying problem areas within USAFA and improving ADR quality.
3. ADR Cost and Time Savings. One of the expected goals of the USAFA ADR Program is to save time and money. While accurately quantifying cost savings can be difficult, the USAFA ADR champion will utilize available data on the estimated cost of processing an Air Force EEO complaint to estimate savings gained by resolving the issue in the earlier stages of the complaint.
4. Mediator and Early Neutral Evaluations. The USAFA ADR champion will collect evaluations from Air Force mediators and from the parties at the conclusion of each mediation session.

The results from the above metrics will be tracked and provided to the Air Force Office of the General Counsel as part of the annual ADR performance data required by AFI 51-1201.

CONCLUSION

ADR has produced tremendous results in saving time, dollars, resources, and lost productivity throughout the Air Force. Quick resolution of workplace disputes through positive, non-adversarial communication and mutually-satisfying outcomes will only serve to increase and maintain a positive work environment at USAFA.

ADR PROGRAM PLAN COORDINATION

	<u>Name/Signature of Representative</u>	<u>Date</u>
Civilian Personnel Flight/DPC	_____	_____
Equal Employment Manager	_____	_____
USAFA JA	_____	_____
AFGE Local 1867 President Or Designee	_____	_____

Action by 10 ABW/CC or designee:

I **approve** / disapprove the United States Air Force Academy's ADR Program Plan.

Date:

SUSANNE P. LECLERE, Colonel, USAF
Commander, Headquarters 10th Air Base Wing